

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TYRONE MASSEY,	:	
	:	
Plaintiff,	:	20cv9719 (DLC)
	:	
-v-	:	<u>ORDER</u>
	:	
CAPTAIN SMART,	:	
	:	
Defendant.	:	
	:	
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DENISE COTE, District Judge:

The plaintiff filed this action pursuant to 42 U.S.C. § 1983 on November 17, 2020 while incarcerated at the Manhattan Detention Complex. On December 16, 2020, the Honorable Alison J. Nathan referred this case to Magistrate Judge Ona T. Wang for general pretrial purposes. The case was reassigned to this Court on December 10, 2021.

On April 8, 2022, Magistrate Judge Wang issued an Order scheduling a telephonic conference for May 11. On May 5, the defendant filed a status report requesting adjournment of the May 11 conference because the plaintiff had been released from custody, had not updated his address with the Court, and had not provided the defense counsel with new contact information. The request for adjournment was denied, and a status conference was held on May 11. The plaintiff did not appear.


After the status conference, Magistrate Judge Wang issued an Order directing the plaintiff to file a letter informing the Court of his address by June 22. The Order also directed the Clerk of Court and defense counsel to serve the Order on the plaintiff at his last known address. The defendant filed a certificate of service on May 18. The plaintiff has not submitted a letter informing the Court of his address, and has not otherwise communicated with the Court since his release from custody. Accordingly, it is hereby

ORDERED that the general pretrial referral is vacated.

IT IS FURTHER ORDERED that the case is dismissed for lack of prosecution pursuant to Fed. R. Civ. P. 41(b). See Lewis v. Rawson, 564 F.3d 569, 575-76 (2d Cir. 2009) (noting that the exercise of a court's discretion under Rule 41(b) often occurs where parties fail to comply with a scheduling order or respond to pending motions). If no application to restore this action is made by **September 15, 2022**, today's dismissal of the action is with prejudice.

SO ORDERED:

Dated: New York, New York
August 16, 2022



DENISE COTE
United States District Judge